**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.658 OF 2006

K.K. Nair. ..Applicant.
Vs.
The State of Maharashtra and anr.
..Respondents.

D'lima & Associates for the Applicant.

Mr. Jaideep Lele with A. Roy i/by Roy's Law Firm for the Respondent No.2.

Mr. S.R.Shinde, APP. for the State.

**CORAM : R.S. MOHITE,J.**
**DATED : 16/3/2006.**

**P.C.**

1. Heard both parties.

2. This application impugns an order dated 13.1.2006 passed by the Sessions Court, Mumbai in an appeal filed by the applicant against the conviction under Section 138 of the Negotiable Instruments Act. While convicting the applicant, he has been sentenced to under go S.I. for 3-months and to pay a fine of Rs.2000/- in default to suffer S.I. for 15 days and to pay compensation for a total sum of Rs.46,40,000/- to the respondent No.2. The applicant preferred an appeal against the aforesaid order before the Sessions Court. The Sessions Court admitted the appeal and suspended the sentence on

the condition that the appellant to deposit Rs.10/- lacs on or before 22.2.2006. I am informed by both the advocates that the period of deposit has been extended by the lower appellate court upto 23.3.2006. The Apex Court in the case of **Stanny Felix Pinto Vs. Jangid Builders Pvt. Ltd. reported in A.I.R. 2001 S.C.659** has taken a view that it is not improper to impose condition that part of the fine shall be remitted in court within a specified time for suspending the sentence. The ratio in this case has been extended even to sentence directing payment of compensation in the case of **M.D.Kale Vs. Capt. Atul Wasudeo Divekar and anr. reported in 2005 ALL MR (Cri.) 544.** The Advocate for the applicant states that in the aforesaid case the Single Judge (Abhay S.Oka,J.) of this court has observed that in exceptional cases the appellate court can grant interim protection without requiring deposit of any compensation amount. I have perused the facts of the case. This is not a exceptional case. The defence of the present applicant is that he had issued cheques as security for the complainant obtaining certain bank loans. I do not find this defence in the reply to the show cause notice. No evidence has been led on behalf of the present applicant to rebut the

presumption. In these circumstances, I do not find anything objectionable or perverse in this impugned order and hence, this application is disposed off. Time to pay the amount of Rs.10/- lacs is however, extended till 5.4.2006 and it is made clear that no further time will be given.

**(R. S. MOHITE, J.)**